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10/068,090	02/05/2002	Steven W. Spear	03493.00300	7475

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EXAMINER

LESNIEWSKI, VICTOR D

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/068,090	Applicant(s) SPEAR, STEVEN W.	
	Examiner Victor Lesniewski	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/6/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

20

Art Unit: 2155

DETAILED ACTION

1. This application has been examined.
2. Claims 1-40 are pending.

Information Disclosure Statement

3. The IDS filed 3/6/2002 has been considered.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 5, 9-15, 18, 19, 21-26, and 31-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Bates et al. (U.S. Patent Number 6,779,021), hereinafter referred to as Bates.

6. Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a computer-readable medium are rejected under the same rationale applied to the described claim.

7. Bates has disclosed:

Art Unit: 2155

- <Claim 1>

An apparatus for reducing unwanted emails to a computer network comprising: an input/output point coupled to a computer network (column 6, lines 1-3); a mail queue (column 6, lines 50-54); and a delay queue coupled to the input/output point and the mail queue, whereby incoming email messages are placed on the delay queue, and whereby at least one characteristic of the email message placed on the delay queue is examined to determine whether the email message are likely to be desirable to the intended recipient or recipients (column 6, lines 55-56 and column 7, lines 23-29).

- <Claim 2>

The apparatus of claim 1 wherein the email messages are placed on the delay queue for a configurable time period (column 7, lines 43-48).

- <Claim 3>

The apparatus of claim 1 wherein the input/output point comprises at least one gateway (column 6, lines 1-3 and figure 2, items 38 and 40).

- <Claim 5>

The apparatus of claim 1 wherein the mail queue and delay queue are co-located (figure 3).

- <Claim 9>

The apparatus of claim 1 wherein the at least one characteristic of the emails placed on the delay queue is the number of recipients (column 7, lines 23-29).

Art Unit: 2155

- <Claim 10>

The apparatus of claim 1 wherein the at least one characteristic of the emails placed on the delay queue is the sender's address (column 7, lines 30-42).

- <Claim 11>

The apparatus of claim 1 wherein the at least one characteristic of the emails is selected from the group of: recipient address, number of invalid recipients, encryption of the emails, method of encryption of the emails, authentication of the sending user, method of authentication of the sending user, subject, message-ID, or message content (column 7, lines 43-48).

- <Claim 12>

The apparatus of claim 1 wherein a plurality of characteristics of the emails placed on the delay queue are examined, the characteristic of the emails being selected from the group of: sender's IP, MAC address, sender's address, recipient address, number of recipients, number of invalid recipients, encryption of the emails, method of encryption of the emails, authentication of the sending user, method of authentication of the sending user, subject, message-ID, or message content (column 7, lines 30-42).

- <Claim 13>

An apparatus for reducing unsolicited bulk emails to a computer network comprising: an at least one gateway to a computer network for receiving or transmitting information whereby incoming emails are initially examined for being suspect as unsolicited bulk emails (column 6, lines 1-3; figure 2, items 38 and 40; and column 8, lines 37-55); a mail queue (column 6, lines 50-54); and a delay queue, whereby suspect incoming emails are

Art Unit: 2155

placed on the delay queue for an appropriate and configurable time period, whereby at least one characteristic of the emails placed on the delay queue is examined to determine whether the emails is likely to be desirable to the intended recipient (column 7, lines 23-48).

- <Claim 14>

The apparatus of claim 13 wherein emails identified as not suspect as unsolicited bulk emails are delivered to the mail queue (column 8, lines 41-45).

- <Claim 15>

The apparatus of claim 13 wherein said emails placed on the delay queue and found sufficiently unique as not to present a threat to the resources of the computer network are delivered to the mail queue (column 10, lines 15-17).

- <Claim 18>

The apparatus of claim 13 further including computer-executable instructions for determining whether the emails are acceptable as desired or permitted, said computer-executable instructions providing rules for accepted characteristics for individual emails (column 7, lines 13-21).

- <Claim 19>

The apparatus of claim 18 wherein said emails placed on the delay queue are compared against established protocols, and wherein emails found acceptable are delivered to the mail queue (column 7, lines 23-48 and column 10, lines 15-17).

Art Unit: 2155

- <Claims 21 and 31>

A method of reducing unwanted email messages received at a computer network, the method comprising: (a) storing an email message on a delay queue (column 6, lines 55-56); (b) identifying at least one characteristic of the email message stored on the delay queue (column 7, lines 43-48); and (c) comparing said at least one characteristic of the email message stored on the delay queue with corresponding characteristics of other email messages stored on the delay queue to determine a likelihood that the email message is an unwanted e-mail message (column 7, lines 49-65).

- <Claims 22 and 32>

The method of claim 21 further including initially identifying incoming email messages as suspect or not suspect, whereby email messages identified as suspect are stored on the delay queue (column 8, lines 53-55).

- <Claims 23 and 33>

The method of claim 22 further including delivering email messages identified as not suspect to a mail queue for ultimate delivery to the intended recipient (column 8, lines 41-45).

- <Claims 24 and 34>

The method of claim 21 wherein (c) includes comparing a plurality of characteristics of the email message with corresponding characteristics of other email messages (column 7, lines 59-62).

Art Unit: 2155

- <Claims 25 and 35>

The method of claim 24 further including: receiving a delay time at the delay queue; and storing the email message on the delay queue for the delay time (column 9, lines 3-19 wherein messages must be stored on the queue for the designated time period in order to complete the determination).

- <Claims 26 and 36>

The method of claim 25 further including: after determining in (c) that the email message is likely not an unwanted message, delivering the email message to the mail queue (column 10, lines 15-17).

Since all the limitations of the invention as set forth in claims 1-3, 5, 9-15, 18, 19, 21-26, and 31-36 were disclosed by Bates, claims 1-3, 5, 9-15, 18, 19, 21-26, and 31-36 are rejected.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4, 6, 16, 17, 20, 27-30, and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates.

10. Bates has disclosed a method for predicting and managing undesirable email that analyzes emails to determine patterns of similarity. Concerning claim 4, Bates did not explicitly disclose a system with a plurality of gateways, though this would be a clear extension of his

Art Unit: 2155

system because network servers (like figure 2, item 40) often connect to multiple networks through multiple gateways. Concerning claim 6, Bates did not explicitly state the delay queue distributed over multiple machines, though this would be a clear extension of his system because servers often operate a single, coordinated process over multiple machines. Concerning claims 16, 20, 27, and 37, Bates did not explicitly state not delivering to a particular destination address emails found to present a threat. However, Bates does mark these emails differently before delivering them and it would be a clear extension of his system to deliver them to a separate folder or other distinct place since they are already marked differently. Furthermore, it is well known that filtering systems may simply return or delete the filtered messages. Thus, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Bates by adding the ability to utilize a plurality of gateways, the ability to utilize a queue residing on a plurality of a machines, and the ability to not deliver to a destination address emails found to present a threat.

11. Thereby, Bates discloses:

- <Claim 4>

The apparatus of claim 1 wherein the input/output point comprises a plurality of gateways (column 6, lines 1-3; figure 2, items 38 and 40; and obviousness).

- <Claim 6>

The apparatus of claim 1 wherein the delay queue resides on a plurality of machines and wherein the delay queue polls the plurality of machines regarding the at least one characteristic of the emails on the delay queue (column 6, lines 23-25 and obviousness).

Art Unit: 2155

- <Claim 16>

The apparatus of claim 15 wherein said emails found to present a threat to the resources of the computer network are not delivered to destination addresses (column 10, lines 13-15 and 18-26 and obviousness).

- <Claim 17>

The apparatus of claim 16 wherein said emails not delivered to the mail queue are discarded, returned to the sender, stored for further inspection, or stored for a recipient to request (column 10, lines 23-26 and 43-54).

- <Claim 20>

The apparatus of claim 19 wherein said emails not delivered to the mail queue may be discarded, returned to the sender, stored for further inspection, or stored for a recipient to request (column 10, lines 13-15, 18-26, and 43-54 and obviousness).

- <Claims 27 and 37>

The method of claim 26 further including: after determining in (c) that the email message is likely an unwanted message, preventing delivery of the email message (column 10, lines 13-15 and 18-26 and obviousness).

- <Claims 28 and 38>

The method of claim 27 wherein preventing delivery includes returning the email message to a sender (obviousness).

- <Claims 29 and 39>

The method of claim 27 wherein preventing delivery includes discarding the email message (obviousness).

Art Unit: 2155

- <Claims 30 and 40>

The method of claim 27 wherein preventing delivery includes storing the email message (column 10, lines 23-26 and 43-54).

Since Bates discloses all of the above limitations, claims 4, 6, 16, 17, 20, 27-30, and 37-40 are rejected.

12. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates, as applied above, in view of Chu (U.S. Patent Number 6,182,119).

13. Bates disclosed a method for predicting and managing undesirable email that analyzes emails to determine patterns of similarity. In an analogous art, Chu disclosed a system for configuring filters in an electronic data filtering system.

14. Concerning claims 7 and 8, Bates did not explicitly disclose using IP addresses or MAC addresses as characteristics to determine whether email messages are likely to be desirable or not. However, filtering based on IP address was well known in the art at the time of the applicant's invention as evidenced by Chu. Furthermore, MAC and IP addresses map to each other and one can easily be resolved into the other, so it would also be obvious to filter by a MAC address in systems capable of filtering by IP address. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Bates by adding the ability to use IP addresses or MAC addresses as characteristics to determine whether email messages are likely to be desirable or not as provided by Chu. Here the combination satisfies the need for effectively analyzing email to determine patterns among incoming emails and classify potential spam. See Bates, column 3, lines 34-37.

Art Unit: 2155

15. Thereby, the combination of Bates and Chu discloses:

- <Claim 7>

The apparatus of claim 1 wherein the at least one characteristic of the emails placed on the delay queue is the sender's Internet protocol address (Chu, column 11, lines 31-40).

- <Claim 8>

The apparatus of claim 1 wherein the at least one characteristic of the emails placed on the delay queue is the email's MAC address (Chu, column 11, lines 31-40 where IP addresses map to MAC addresses).

Since the combination of Bates and Chu discloses all of the above limitations, claims 7 and 8 are rejected.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Cotten (U.S. Patent Number 6,330,590) disclosed detecting and removing unwanted bulk email messages by using a signature ID code for each message.
- Townshend (U.S. Patent Number 6,829,635) disclosed a method for identifying bulk email that tracks and uses the contents of a plurality of emails.
- Ralston et al. (U.S. Patent Number 6,842,773) disclosed a method for processing bulk email by creating codes for individual messages and comparing the codes.

Art Unit: 2155

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987.

The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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